

MINUTES
POLICY ADVISORY OPINION COMMITTEE MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS
1917 IH-35 SOUTH, BOARD ROOM, AUSTIN, TEXAS
August 16, 2012— 8:30 AM

CALL TO ORDER. Committee Chair, Lamberto “Bobby” Ballí, P.E., called the Policy Advisory Opinion Committee (PAOC) meeting to order at 8:30 am on August 16, 2012, at the Texas Board of Professional Engineers, 1917 South Interstate 35, Austin, TX 78741 (All votes are unanimous, unless otherwise noted).

1. Roll call and welcome visitors.

Lamberto “Bobby” Ballí, P.E.	Chair
Edward Summers, Ph.D.	Member
Daniel Wong, Ph.D., P.E.	Member

A quorum was present. Ms. Veena Mohan, Assistant Attorney General was present to provide legal counsel to the Board. Mr. Edmundo Gonzalez, Jr., P.E., and Mr. Jose I. Guerra, P.E., Emeritus Board Members were present.

The following staff members were present:

Lance Kinney, P.E.	Executive Director
Priscilla Pipho, MPA	Deputy Executive Director
C.W. Clark, P.E.	Director of Compliance & Enforcement
Dewey Helmcamp, III, JD	Staff Attorney
Charles Pennington, P.E.	Staff Engineer
Dorothy Gonzales	Executive Assistant

Visitors. Faye Rencher, Sunset Commission; Joe Walraven, Sunset Commission; Steven Ogle, Sunset Commission; Terry Bilderback, Texas Society of Professional Engineers (TSPE); Peyton McKnight, American Council of Engineering Companies – Texas; Terry Sams, Texas Department of Transportation (TxDOT); Sam Kannappan, P.E., Board Member; Elvira Reyna, Board Member.

2. Public comment. None.

3. Discuss and possibly approve the May 24, 2012 Policy Advisory Committee Minutes.

It was MOVED/SECONDED (Summers/Wong) to approve the May 24, 2012, Policy Advisory Committee Minutes as submitted. A vote was taken and the MOTION PASSED.

4. Engineering Advisory Opinion Request.

- **Discuss and possibly approve EAOR #31 – Designated Engineering Representative (DER) with response from the Attorney General Opinion #GA0955.**

Mr. Pennington commented that the original request asked if a DER working on behalf of the Federal Aviation Administration (FAA) performing engineering functions related to aviation had to be a licensed engineer. Staff’s research and results could not find any exemption in the Act. He added that staff had been directed to request an Attorney General Opinion. The Board received a response from the Attorney General’s office which stated that due to Supreme Court precedent, a person appointed as a DER by the FAA is not required to be a licensed

engineer while serving in that capacity; if the DER engages in the practice of engineering outside of the scope of the DER appointment, then they are required to be a licensed professional engineer. Staff suggests that the Committee recommend to the full Board to approve posting Attorney General Opinion #GA0995 on the Board's website, and mailing a copy to the requestor as a response to EAOR#31 which will close this request. Staff was directed to notify the FAA staff of the response as well.

It was MOVED/SECONDED (Summers/Wong) to recommend to the full Board at its Regular Quarterly Board meeting on August 16, 2012, to approve posting the Attorney General Opinion #GA0995, and mailing a copy to the requestor as a response to EAOR#31. A vote was taken and the MOTION PASSED.

- **Update on comment(s) received on EAOR #33-Direct Supervision.**

Mr. Pennington reported that this opinion was regarding whether a person providing expert testimony had to be a professional engineer. The Committee requested an update on any comments received. Mr. Pennington reported that the Board did not receive any comments regarding EAOR#33-Direct Supervision which was sent in anonymously. No action was required.

5. **Discuss and possibly approve revised response to current Policy Advisory Opinion Response (PAO) 21 - Manufactured Buildings; to comply with HB2284.**

Mr. Pennington reported that PAO 21-Manufactured Buildings, which was originally posted in 2006, was modified to comply with HB2284. The original request was submitted by the City of San Angelo. The modification will be sent to the building official at the City of San Angelo. The two items amended were: removal of the requirement that an engineer had to seal the building plans, and the phrase, "designing a building is engineering". These modifications were made in compliance with HB2284. Staff suggests that the Committee recommend approval at the full Board meeting, and then the revisions will be sent to the City of San Angelo, and reposted on the agency website.

It was MOVED/SECONDED (Wong/Summers) to recommend to the Board at its Regular Quarterly Board meeting on August 16, 2012, to approve the revised PAO 21, mail it to the City of San Angelo, and post on the Board's website.

Mr. Balli asked Mr. Kinney to give a brief update on how HB 2284 and the current PAOs were affected by the legislation as discussed at the TBPE/TBAE Task Force meeting in San Antonio. Mr. Kinney commented that the main concern was reviewing all the current approved Policy Advisory Opinions to ensure that they aligned with HB 2284, which TBPE staff did. PAO 21 is the last one that required modification. TBPE staff will communicate with TBAE staff that all modifications to PAOs have been done to align with HB2284.

6. **Issues for consideration and schedule next meeting.**

ADJOURN.

It was MOVED/SECONDED (Wong/Summers) to adjourn the meeting at 8:47 am. A vote was taken and the MOTION PASSED.

Date approved by Board:

November 29, 2012